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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: 

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COLFIN AI-CA 4, LLC,

Plaintiff,

vs.

ELDA MARTINEZ,

Defendant.

Case No. ED CV 12-2019-UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because defendant removed it improperly.

On November 19, 2012, defendant Elda Martinez, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice Of Removal of that action to this Court, and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either

1 diversity or federal question jurisdiction, and therefore removal is improper. 28
2 U.S.C. § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546,
3 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Here, defendant has asserted
4 federal question jurisdiction as her basis for removal. But as described in more
5 detail in the Order Denying Defendant's Request to Proceed Without Prepayment
6 of Filing Fee, because the unlawful detainer action to be removed does not raise
7 any of the federal claims to which defendant points, there is no basis to assert
8 federal question jurisdiction. *See* 28 U.S.C. §§ 1331, 1441.

9 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
10 Superior Court of California, San Bernardino County, Central District, 303 W.
11 Third Street, San Bernardino, CA 92415-0240, for lack of subject matter
12 jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified
13 copy of this Order to the state court; and (3) that the Clerk serve copies of this
14 Order on the parties.

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16
17 DATED: 11/27/12


HONORABLE GEORGE H. KING
CHIEF UNITED STATES DISTRICT JUDGE